

(E) if located indoors, a carbon monoxide monitor on the exterior of the chamber that is connected to an audible alarm system, which will sound in the room containing the chamber;

(F) explosion-proof electrical equipment if equipment is exposed to carbon monoxide;

(G) a view-port with either internal lighting or external lighting sufficient to allow visual surveillance of any animal(s) within the chamber; and

(H) if designed to euthanize more than one animal at a time, independent sections or cages to separate individual animals.

(4) The gas concentration process must achieve at least a 6% carbon monoxide gas concentration not to exceed 10% due to flammability and explosiveness throughout the chamber within 5 minutes after the introduction of carbon monoxide into the chamber is initiated.

(5) The ambient temperature inside the chamber should not exceed 85 degrees Fahrenheit (29.4 degrees Celsius) when it contains a live animal(s). For an outdoor chamber, achievement may be facilitated by use of the chamber during early morning.

(6) All equipment, as specified in paragraph (3)(A) - (H) of this subsection, must be in proper working order and used at all times during the operation of the chamber.

(7) An animal(s) must be left in the chamber with a continuous gas supply for a minimum of 15 minutes ~~[not be removed from the chamber until at least 5 minutes after cessation of respiratory movement]~~.

(8) The chamber must be thoroughly vented prior to removing any carcasses.

(9) The chamber must be thoroughly cleaned after the completion of each cycle. Chamber surfaces must be constructed and maintained so they are impervious to moisture and can be readily sanitized.

~~[(10) Persons operating the chamber must be thoroughly trained in the proper methods and techniques for euthanizing animals. A person has until the 120th day following the date of initial employment to complete this training.]~~

~~(10) [(11)]~~ Operation, maintenance, and safety instructions and guidelines must be displayed prominently in the area containing the chamber.

~~(11) [(12)]~~ Carbon monoxide shall not be used to euthanize any animal reasonably presumed to be less than 16 weeks of age. Carbon monoxide shall also not be used to euthanize any animal that could be anticipated to have decreased respiratory function, such as the elderly, sick, injured, or pregnant. Such animals may be resistant to the effects of carbon monoxide and the time required to achieve death in these animals may be significantly increased. In animals with decreased respiratory function, carbon monoxide levels rise slowly, making it more likely that these animals will experience elevated levels of stress.

~~(12) [(13)]~~ Only compatible animals of the same species may be placed in the chamber simultaneously.

~~(13) [(14)]~~ No live animal(s) may be placed in the chamber with a dead animal(s).

~~(e) Prior to using any method of euthanasia, all available measures should be taken to minimize the fear, anxiety, and distress of the animal scheduled for euthanasia.~~

~~[(d) Any animal other than cats and dogs, including birds and reptiles, in the custody of an animal shelter shall be humanely euthanized only in accordance with the methods, recommendations, and procedures prepared by the American Veterinary Medical Association (AVMA) and set forth in the AVMA Guidelines on Euthanasia (June 2007) applicable to each species of animal.]~~

~~(f) [(e)]~~ When using any of the allowable methods of euthanasia, each animal must be monitored between the time euthanasia procedures have commenced and the time death occurs, and the animal's body must not be disposed of until death is confirmed by examination of the animal for cessation of vital signs.

~~(g) As specified under the Texas Health and Safety Code, §821.055, a person (excluding licensed veterinarians) may not euthanize any animal in the custody of an animal shelter unless the person has successfully completed a training course in the proper methods and techniques for euthanizing animals not later than three years before the date the person euthanizes the animal. The training course must be pre-approved by the department. A person has until the 120th day following the date of initial employment to complete this training.~~

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 6, 2013.

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Lisa Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: September 22, 2013

For further information, please call: (512) 776-6972

## CHAPTER 181. VITAL STATISTICS SUBCHAPTER B. VITAL RECORDS

### 25 TAC §181.22

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes an amendment to §181.22, concerning the waiver of a fee for a certified record.

#### BACKGROUND AND PURPOSE

Health and Safety Code, §191.0045, authorizes the Executive Commissioner of the Health and Human Services Commission to adopt administrative rules that prescribe a schedule of fees for vital statistics services performed by the Bureau of Vital Statistics (the bureau) of the department. This statute also requires a local registrar or county clerk who issues a certified copy of a birth record to charge the same fee as the bureau.

Section 181.22 currently prescribes fees for the production of certified copies of birth records. Under 37 TAC §15.182, Department of Public Safety (DPS), an individual who applies for an Election Identification Certificate (EIC) issued by the DPS pursuant to Transportation Code, Chapter 521A, may be required to produce an original or certified copy of a birth record. The cost of a certified birth record may impose a barrier to a person who is required to produce a certified copy for the purpose of obtaining an EIC.

The proposed amendment waives the fees charged under §181.22 for a certified copy of a birth record for an individual

who requires a certified copy in order to obtain an EIC. The waiver applies to an individual who requests a certified copy from the department, a local registrar, or a county clerk.

The DPS reports that, as of the publication date of this proposed amendment, fewer than twenty individuals statewide have requested an EIC. Accordingly, the department believes that the proposed amendment will not negatively affect fees and charges otherwise assessed and collected by local registrars and county clerks under §181.22.

#### SECTION-BY-SECTION SUMMARY

The amendment to §181.22 stipulates the requirements for waiver of fees associated with obtaining an election identification certificate pursuant to the Transportation Code, Chapter 521A.

#### FISCAL NOTE

Geraldine Harris, Unit Director of the Vital Statistics Unit, has determined that, due to the low number of individuals who have requested an EIC from the DPS, for each year of the first five years that the section is in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the section as proposed.

#### SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Harris has also determined that there will be no adverse economic costs to small businesses or micro-businesses required to comply with the section as proposed. This was determined by interpretation of the rule that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the section.

#### ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated costs to persons who are required to comply with the section as proposed. There is no anticipated negative impact on local employment.

#### PUBLIC BENEFIT

Additionally, Ms. Harris has also determined that for each year of the first five years the section is in effect, the public will benefit from the adoption of this amendment because it allows a person who does not have a birth certificate to obtain one at little or no cost for the purpose of securing an EIC to vote.

#### REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

#### TAKING IMPACT ASSESSMENT

The department has determined that the proposed amendment does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

#### PUBLIC COMMENT

Comments on the proposal may be submitted to Marc Connelly, Deputy General Counsel, Department of State Health Services, Mail Code 1919, P.O. Box 149347, Austin, Texas 78714-9347, telephone (512) 776-6683, or marc.connelly@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

#### LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rule has been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

#### STATUTORY AUTHORITY

The amendment is proposed under Health and Safety Code §191.0045, which authorizes the bureau of vital statistics to charge fees for the preparation and issuance of certified copies of a birth record and prescribe a schedule of fees, and §191.002, which authorizes rules necessary for the effective administration of Vital Statistics Records; and Government Code §531.0055 and Health and Safety Code §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

The amendment affects Health and Safety Code, Chapters 191 and 1001; and Government Code, Chapter 531.

*§181.22. Fees Charged for Vital Records Services.*

(a) - (s) (No change.)

(t) The fee for a certified record that otherwise is required under this section is waived for an applicant who represents that the certified record is required for the purpose of obtaining an election identification certificate issued pursuant to Transportation Code, Chapter 521A.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 12, 2013.

TRD-201303362

Lisa Hernandez

General Counsel

Department of State Health Services

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For further information, please call: (512) 776-6972

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## TITLE 34. PUBLIC FINANCE

### PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

#### CHAPTER 3. TAX ADMINISTRATION

#### SUBCHAPTER O. STATE SALES AND USE TAX

34 TAC §3.281